

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9
10 JERRY HOANG, et al.,

11 Plaintiffs,

12 v.

13 BANK OF AMERICA, N.A., et al.,

14 Defendants.

CASE NO. C17-0874JLR

ORDER TO SHOW CAUSE

15 Before the court is Defendants Bank of America, N.A., and Federal National
16 Mortgage Association's ("Fannie Mae") (collectively, "Removing Defendants") notice of
17 removal. (Not. of Removal (Dkt. # 1).) For the following reasons, the court ORDERS
18 the parties to meet and confer and ORDERS Removing Defendants to show cause why
19 the court should not remand this case for lack of subject matter jurisdiction.

20 Removing Defendants base federal jurisdiction on diversity of citizenship. (*See*
21 *id.* ¶¶ 2, 4 (citing 28 U.S.C. § 1332(a)(1)).) "Section 1332 requires complete diversity of
22 citizenship; each of the plaintiffs must be a citizen of a different state than each of the

1 defendants.” *Morris v. Princess Cruises, Inc.*, 236 F.3d 1061, 1067 (9th Cir. 2001). In
2 addition, there is a “strong presumption” against removal jurisdiction, meaning “that the
3 defendant always has the burden of establishing that removal is proper.” *Gaus v. Miles,*
4 *Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

5 Removing Defendants allege that Plaintiffs Jerry Hoang and Le Uyen Thi Nguyen
6 (collectively, “Plaintiffs”) are Washington residents (*id.* ¶ 5(a)), Bank of America is a
7 North Carolina resident (*id.* ¶ 5(b); *see also* Compl. (Dkt. # 1-1) ¶ 3.2), and Fannie Mae
8 is a District of Columbia resident (Not. of Removal ¶ 5(c); *but see* Compl. ¶ 3.3 (alleging
9 Fannie Mae is a resident of Virginia)). In the caption to their complaint, however,
10 Plaintiffs name two additional defendants: Mortgage Electronic Registration Systems,
11 Inc. (“MERS”) and BAC Home Loans Servicing, LP (“BAC”).¹ (Compl. at 1.) In their
12 notice of removal, Removing Defendants make no reference to MERS or BAC. (*See*
13 *generally* Not. of Removal.)

14 It is unclear whether MERS and BAC are defendants and, if so, whether they are
15 diverse from Plaintiffs. Besides the caption, the complaint does not mention MERS and
16 BAC. (*See generally* Compl.; *see also id.* ¶¶ 3.1-3.3 (naming the parties to the action as
17 Plaintiffs and Removing Defendants)); *Hoffman v. Halden*, 268 F.2d 280, 303-04 (9th
18 Cir. 1959) (“[T]he caption of an action is only the handle to identify it and ordinarily the
19 determination of whether or not a defendant is properly in the case hinges upon the
20

21 ¹ Plaintiffs also name John Does 1-20 in the caption to the complaint (*see* Compl. at 1),
22 but fictitious defendants are irrelevant for purposes of ascertaining diversity jurisdiction upon
removal, *see* 28 U.S.C. § 1441(b).

1 allegations in the body of the complaint and not upon his inclusion in the caption.”),
2 *overruled on other grounds by Cohen v. Norris*, 300 F.2d 24 (9th Cir. 1962). However,
3 Removing Defendants neither argue that MERS and BAC are not properly considered
4 parties to this action nor allege the domicile of MERS and BAC. (*See generally id.*)
5 Furthermore, although Plaintiffs appear to assert a federal claim (*see* Compl. ¶¶ 1.1, 4.4,
6 5.1-5.9); 28 U.S.C. §§ 1331, 1441(a), Removing Defendants clearly base removal on
7 “diversity jurisdiction under 28 U.S.C. § 1332” (Not. of Removal ¶ 2; *see also id.* ¶¶ 4-6).

8 Because Removing Defendants fail to acknowledge and address the additional
9 defendants named in the case caption, the court cannot ascertain the parties to this lawsuit
10 and, therefore, cannot determine whether the court has diversity jurisdiction.

11 Accordingly, the court ORDERS the parties to meet and confer regarding the additional
12 defendants. Following the meet-and-confer, Removing Defendants must show cause why
13 the court should not remand this case to King County Superior Court for lack of subject
14 matter jurisdiction. *See Gaus*, 980 F.2d at 566. Plaintiffs must also respond to this order
15 to indicate their position regarding which entities are defendants in this action and on
16 what legal basis those entities are properly named in the complaint. *See Hoffman*, 268
17 F.2d at 303-04. Both responses must be submitted by July 7, 2017, and neither response
18 may exceed four (4) pages. If Removing Defendants fail to timely respond to this order

19 //

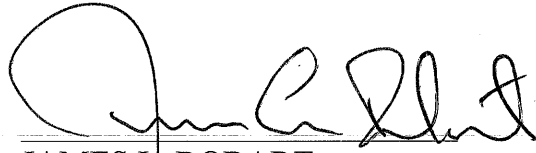
20 //

21 //

22 //

1 or demonstrate the court's subject matter jurisdiction, the court will remand this case to
2 King County Superior Court.

3 Dated this 21st day of June, 2017.

4 
5 JAMES L. ROBART
6 United States District Judge